

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON-3 DIVISION**

IN RE:  
COMMUNITY HOME FINANCIAL SERVICES, INC.,  
DEBTOR

CHAPTER 11 PROCEEDING  
CASE NO. 12-01703-NPO

WILMINGTON TRUST NATIONAL ASSOCIATION,  
AS SUCCESSOR TRUSTEE TO CITIBANK, N.A., AS  
TRUSTEE FOR BNC MORTGAGE LOAN TRUST  
SERIES 2007-3, MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2007-3

PLAINTIFF

VS.

COMMUNITY HOME FINANCIAL SERVICES, INC.,  
DEBTOR

DEFENDANT

**MOTION FOR RELIEF FROM AUTOMATIC STAY  
AND FOR OTHER RELIEF**

COMES NOW, Wilmington Trust National Association, as successor trustee to Citibank, N.A., as Trustee for BNC Mortgage Loan Trust Series 2007-3, Mortgage Pass-Through Certificates, Series 2007-3, a party in interest in this cause, by and through its attorney, and moves this Court to lift the automatic stay as to certain property belonging to Derrick Tate, and for other relief, and in support of said motion would respectfully show unto the Court the following to wit:

**I.**

That on or about May 23, 2012, Community Home Financial Services, Inc. filed a voluntary petition in Bankruptcy pursuant to 11 U.S.C. Chapter 11. By operation of 11 U.S.C. 362, the Plaintiff is prohibited from commitment of any judicial proceeding against the Defendant, any act to obtain possession of property of the estate, or any act to enforce any lien against the property of the estate.

II.

That the Bankruptcy Court has jurisdiction over this proceeding pursuant to 11 U.S.C. 362.

III.

That on or about April 19, 2007, Derrick Tate, did execute a certain Note and Deed of Trust in favor of BNC Mortgage, Inc., A Delaware Corporation and secured by the following real property located at 7 Vigilance Court, Bolingbrook, IL 60440:

LOT 18, IN WINSTON WOODS UNIT TWO BEING A SUBDIVISION OF PARTS OF THE NORTHWEST QUARTER OF SECTION 1 AND THE EAST HALF OF SECTION 2, ALL IN TOWNSHIP 37 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN WILL COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF WILL COUNTY, ILLINOIS ON SEPTEMBER 22, 1970 AS DOCUMENT NUMBER R70-17089, IN WILL COUNTY, ILLINOIS.

Said Deed of Trust is recorded in the Will County Clerk's office as Instrument No. 2007066557. Further, said Note and Deed of Trust were subsequently assigned to Plaintiff by assignment recorded in the office of the Chancery Clerk aforesaid. A copy of said Deed of Trust attached hereto as an Exhibit as though fully copied herein. The value of the subject property is \$73,413.00 according to the Tax Assessment attached as Exhibit 1.

IV.

Derrick Tate has failed to pay the current month's indebtedness directly to the Plaintiff and is now due and owing for the June 2012 payment and all subsequent payments. That as of November 22, 2019, Derrick Tate is delinquent in post-petition payments in the amount of \$239,999.48, plus all payments and charges that accrue hereafter. The current monthly payment is \$2,371.70. As of November 22, 2019, the payoff amount is \$555,265.25.

Said Mortgage is a first priority lien on the above referenced property, and is now due and owing. Upon information and belief, the Debtor, Community Home Financial Services, Inc. holds a second mortgage with reference to the subject property.

V.

Plaintiff would show that sufficient cause exists for the termination, annulment or modification of the automatic stay as provided in 11 U.S.C.362 (d) (1) because of the failure of Derrick Tate to make the payments set forth above and because there is no equity in the property. Plaintiff would urge the Court to terminate, modify or lift the automatic stay and abandon the subject property from the estate of the Debtor, so as to allow the Plaintiff to pursue all remedies available to it under the terms and conditions of said Deed of Trust, and applicable state law, including initiation of foreclosure proceedings. Plaintiff further asks for attorney fees and court costs incurred. Plaintiff also requests that the 14-day stay imposed by FRBP 4001(a)(3) be waived.

WHEREFORE, PREMISES CONSIDERED, Wilmington Trust National Association, as successor trustee to Citibank, N.A., as Trustee for BNC Mortgage Loan Trust Series 2007-3, Mortgage Pass-Through Certificates, Series 2007-3 files this Motion and prays that the automatic stay afforded by 11 U.S.C. 362 be terminated, modified or lifted, after notice and hearing, so as to allow Plaintiff to pursue its remedies and to initiate foreclosure proceedings against the property which is subject to said Deed of Trust, and for attorney's fees and costs incurred. Plaintiff also requests that the 14-day stay imposed by FRBP 4001(a)(3) be waived.

Respectfully submitted  
SHAPIRO & BROWN, LLC

/s/ Bradley P. Jones  
Bradley P. Jones  
Attorney for Creditor

**MFR BREAKDOWN**

In Re: Community Home Financial Services, Inc.

BK Case #: 12-01703-NPO

Chapter 11

S&amp;M FILE #: 14-010257

6/2012 - 10/2013	No. of Months <u>17</u>	X Monthly Payment of	\$2,241.03	=	\$38,097.51
11/2013 - 9/2015	No. of Months <u>23</u>	X Monthly Payment of	\$2,390.83	=	\$54,989.09
10/2015 - 6/2016	No. of Months <u>9</u>	X Monthly Payment of	\$4,750.16	=	\$42,751.44
7/2016 - 4/2017	No. of Months <u>10</u>	X Monthly Payment of	\$3,110.24	=	\$31,102.40
5/2017 - 9/2017	No. of Months <u>5</u>	X Monthly Payment of	\$2,310.12	=	\$11,550.60
10/2017 - 8/2018	No. of Months <u>11</u>	X Monthly Payment of	\$2,357.54	=	\$25,932.94
9/2018 - 11/2019	No. of Months <u>15</u>	X Monthly Payment of	\$2,371.70	=	\$35,575.50
<b>TOTAL</b>				=	<b>\$239,999.48</b>

### **CERTIFICATE OF SERVICE**

I, Bradley P. Jones, of the firm of Shapiro & Brown, LLC, do hereby certify that I have this date provided a copy of the foregoing Motion for Relief either by electronic case filing or by United States mail postage pre-paid to the following:

Kristina M. Johnson  
jbarber@joneswalker.com

Office of the U.S. Trustee  
[USTPRegion05.JA.ECF@usdoj.gov](mailto:USTPRegion05.JA.ECF@usdoj.gov)

Community Home Financial Services, Inc.  
Chapter 11 Trustee  
P. O. Box 23368  
Jackson, MS 39225

Community Home Financial Services, Inc., Attorney for the Debtor  
Chapter 11 Trustee  
P. O. Box 23368  
Jackson, MS 39225

Dated: January 27, 2020

Respectfully submitted  
SHAPIRO & BROWN, LLC

/s/ Bradley P. Jones  
Bradley P. Jones  
Attorney for Creditor

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